

## REMARKS

The applicant has carefully considered the Office action dated October 16, 2007, and the references it cites. By way of this Response, claims 1-13, 15-22 and 24 have been amended. In view of the following, it is respectfully submitted that all pending claims are in condition for allowance and favorable reconsideration is respectfully requested.

### **The 35 U.S.C. § 102 Rejections**

Claims 1-6, 8-13, 15-24 are rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,893,887 ("Jayaraman").

All of the claims are directed to a stent or a related method wherein the stent includes, *inter alia*, a visibility indicator including one or more markers or variable wall thickness.

Jayaraman does not describe a stent that includes a visibility indicator including one or more markers or variable wall thickness. Instead, the only visibility characteristics described by Jayaraman is a radio-opaque coat. However, a coating is not the same as a marker or a variable wall thickness. With a coat of radio-opaque material, the precise geometry and, hence, orientation of the stent may not be fully visible because portion of the stent itself may obstruct the view. Contrarily markers or variable wall thickness could be used to readily identify features of the stent. For example, if two or three markers are used at one end of the stent to identify the longer side and a single marker is used on the opposite end to identify the shorter side of the stent, rotation of the stent can separate the markers. For example, in one orientation, the markers on the longer side

may overlap and appear as one, i.e., are not individually identifiable. This may signal to the surgeon that the longer side is not properly oriented and that the stent needs to be further rotated for correct alignment for deployment at the bifurcation origin. If the entire stent were coated and did not include markers, the precise orientation of the angled, longer end of the stent may be not readily identifiable. Thus, when viewing a stent with the claimed visibility indicators, the presence or absence of the indicators will signal to the surgeon or other user the orientation of the stent that would not be presented with the stent described in Jayaraman.

It is well settled that “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). Thus, because Jayaraman fails to describe all of the recitations of any of the claims, Jayaraman cannot anticipate any of the claims.

### **The 35 U.S.C. § 103 Rejections**

Claims 7 and 14 are rejected under 35 U.S.C. § 103(a) as obvious over Jayaraman in view of U.S. Patent No. 6,939,863 (“Chen”). Claim 7 depends from claim 1, and claim 14 depends from claim 9. Thus, these claims are directed to a stent or a related method wherein the stent includes, inter alia, a visibility indicator including one or more markers or variable wall thickness.

As noted above, Jayaraman fails to describe a stent that includes a visibility indicator including one or more markers or variable wall thickness. The cited portions of Chen also fail to describe a stent that includes a visibility indicator including one or more

markers or variable wall thickness. Chen describes pharmaceutical compositions and acceptable carriers for inhibiting atherosclerosis or restenosis, but the cited portions of Chen do not describe the claimed stents.

As discussed above, none of the cited portions of the prior art describe a stent that includes a visibility indicator including one or more markers or variable wall thickness. Therefore, the combinations of Jayaraman and Chen used as the bases for the obviousness rejections do not teach or suggest all of the recitations of the claims. "To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art." M.P.E.P. 2143.03. "All of the words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Royka*, 490 F.2d 981 (C.C.P.A. 1974). Consequently, the obviousness rejection for all claim 7 and 14 cannot stand and the claims are in condition for allowance.

### Conclusion

Based on the foregoing remarks, it is respectfully submitted that all claims are in condition for allowance. If the Examiner is of the opinion that a telephone conference would expedite the prosecution of this case, the Examiner is invited to contact the undersigned at the number identified below.

The Commissioner is hereby authorized to charge any deficiency in the amount enclosed or any additional fees which may be required under 37 CFR 1.16 or 1.17 to Deposit Account No. 50-2455.

Please refund any overpayment to Hanley, Flight & Zimmerman, LLC at the address below.

Respectfully submitted,

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